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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,401	10/27/2003	Cheryl Phillips	1DATA.118A	5629
20995	7590	03/09/2006	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				LABAZE, EDWYN
		ART UNIT		PAPER NUMBER
		2876		

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

B1

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/695,401	PHILLIPS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	EDWYN LABAZE	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 January 1944.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-10 is/are allowed.
- 6) Claim(s) 11-44 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12222005</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____ .                                  |

### **DETAILED ACTION**

1. Receipt is acknowledged of IDS filed on 12/22/2005.
2. Receipt is acknowledged of amendments filed 12/22/2005.
3. Claims 1-44 are presented for examination.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 11-18, 23-31, and 36-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones (US 2002/0145035).

Re claims 11, 14, 23-27, and 36-39: Jones discloses remote automated document processing system, which includes an input component {herein interpreted terminal keyboards 164/166, 186/188 as shown in fig. # 9, paragraphs 0066+; or input 316 of fig. # 11} that allows the merchant {herein in retail department store} to provide an input to the apparatus (page 7, paragraph 0081+); and a conversion component 284/286 which implements at least one user interface function {herein an analog-to-digital converter} via the display component so as to allow the merchant to convert the accounts receivable check to an electronic transaction file that is transmitted to a check processing service for an authorization process (page 4, paragraphs 0051+). Jones further teaches a user interface component that interfaces with a user performing the financial transaction to determine at least one property of a payment received in a non-face-

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to-face manner {herein Jones teaches that the documents may be received by mail, which could also be through the internet, telephone, and the like; and run the check through a full scanner} so as to allow the user to further perform the financial transaction electronically (paragraph 0056); and the conversion component is herein interpreted as the analog-to-digital converter 284/286 (paragraph 0049).

Re claims 12-13, and 37: Jones teaches system and method, wherein the apparatus comprises a location-base device {herein disclosed a checkout location of a department store, see paragraph 0031} associated with a merchant and, wherein the location-base device comprises a point-of-sale device (paragraphs 0010, 0035 and see claims 1+).

Re claims 15-16, and 28-29: Jones discloses a system and method, wherein the at least one user interface function comprises providing the merchant with an option to select an operating mode {herein Jones discloses means of keying the transaction amount} associated with processing of the accounts receivable check, wherein the at least one user interface function further comprises prompting for and obtaining from the merchant the amount of the accounts receivable check (paragraphs 0038, 0040, 0042, 0066+).

Re claims 17 and 30: Jones discloses a system and method, wherein the at least one user interface function further comprises informing the merchant that a receipt will not be issued for the accounts receivable check transaction (paragraph 0036+).

Re claims 18, 31, and 40: Jones discloses a system and method, further comprising a communication component {herein interpreted as communication link 16/22, 69, 162/168 as shown in figs. # 1, 3, 9} configured to allow communication with the check processing service (paragraphs 0033-0034, 0045+, 0067-0068).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 19-22, 32-35, 41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (US 2002/0145035) in view of Weinflash et al. (US 2003/0217003).

The teachings of Jones have been discussed above. Jones further teaches a clearinghouse or bank for processing the received check.

Jones fails to specifically teach a risk assessment of the check transaction in a manner that depends at least on a level of the service subscribed by the merchant, and means of determining whether or not authorize or decline the check.

Weinflash et al. discloses database for check risk decisions populated with check activity data from banks of first deposit, which a risk assessment of the check transaction in a manner that depends at least on a level of the service subscribed by the merchant (page, paragraphs 0017-0018).

In view of Weinflash et al.'s teachings, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to employ into the teachings of Jones a risk assessment of the check transaction in a manner that depends at least on a level of the service subscribed by the merchant so as to guarantee payment. Furthermore, such method is well-known in the art {as exemplified by the examiner in US 2003/0130919 of Templeton et al., which includes a risk assessment system 111, see paragraphs 0024+, 0054+} modification would

provide a clearance for a processed check with guarantee payment based upon the amount the purchased or selling good/services, wherein the risk level/assessment {through a software program} could be measured upon different criteria such as a scoring model, the number of returned/bounced/cancelled checks, the average checking account, transaction amount and the like presented by the customer. Moreover, such modification would have been an obvious extension as taught Jones, therefore an obvious expedient.

***Allowable Subject Matter***

8. Claims 1-10 are allowed.

9. The following is a statement of reasons for the indication of allowable subject matter: Although the prior art of record teaches means of converting a physical check into a digital check, means of tagging of check with an account number but taken alone or in combination with any other references fails to teach after scanning at least a portion of a check to facilitate an electronic processing, a display that conveys a message to a merchant to facilitate the electronic processing wherein the display queries the merchant whether the check was received in a non-face-to-face manner. These limitations in conjunction with other limitations in the claimed invention were not shown by the prior art of record.

***Response to Arguments***

10. Applicant's arguments with respect to claims 11-44 have been considered but are moot in view of the new ground(s) of rejection.

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Re claims 11-44: The applicant argues that the prior art of record fails to teach means of determining whether a payment was received in a non-face-to-face {i.e. electronically, by mail, in a deposit box and the like} manner (see page 9, 5<sup>th</sup> paragraph).

The examiner respectfully disagrees with the applicant's remarks, because Jones teaches the documents could be received at a full image scanner located at a teller line, a drive-up window, an ATM or, alternatively, the documents may be received by mail. If received by mail, the bank employee may immediately run the documents through a full image scanner without having to forward the documents to a central location for processing (see paragraphs 56+).

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Joao (US 2002/0095360) discloses apparatus and method for providing transaction history information, account history information.

Templeton et al. (US 2003/0130919) teaches systems and methods for selectively accessing financial account information.

Sandru (U.S. 7,004,382) discloses payment validation network.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWYN LABAZE whose telephone number is (571) 272-2395. The examiner can normally be reached on 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

el  
Edwyn Labaze  
Patent Examiner  
Art Unit 2876  
March 6, 2006



THIEN M. LE  
PRIMARY EXAMINER